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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

CLERK'S OFFICE  
U.S. DISTRICT COURT  
SAN JUAN, P.R.

UNITED STATES OF AMERICA, X

X

Plaintiff, X

X

v. X

No. 3:12-cv-2039

X

COMMONWEALTH OF PUERTO RICO, and X

(GAG)

the PUERTO RICO POLICE DEPARTMENT, X

X

Defendants; X

X

JORGE DIAZ CASTRO, X

X

as Defendant – Intervenor. X

X

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

**MOTION REQUESTING A STATEMENT OF FACTS AND/OR ISSUES**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

1. I, Jorge Diaz Castro, proposed Intervenor, move to request a Statement of Facts and/or Issues from the parties in the instant case, in regards to *any and all* budget issues discussed in *any* of the proceedings, with particular attention to telephone and in chambers Status Conferences; and in court Settlement Conferences; as detailed shortly hereafter; for approval of the Honourable Gustavo A. Gelpí, Presiding Judge.

2. As PRO SE Appellant in cases No. 13-2079 and 13-2306, regarding the denial (Docket No. 67) of my motion to intervene (Docket No. 66), I am being directed by the Honourable First Circuit Court of Appeals to file a Transcript Report/Order Form, as required by Federal Rule of Appellate Procedure No. 10(b)(1) and Local Rule 10(a) of the Honourable First Circuit Court of Appeals.

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3. There is the possibility that there are material facts in relation to the budgetary issues discussed in various court proceedings that have not been made public.

4. This is an important issue on my appeal(s).

5. In response to my request for information, the Honourable Gustavo A. Gelpí , in his Order dated November 8<sup>th</sup>, 2013 (Docket No. 91), stated:

The court will order for the record the preparation of transcripts of all in court proceedings in this case on or before December 1, 2013, so that these form part of the record of this case. In chambers and telephone status conferences are not transcribed, however, the corresponding minutes are part of the record. There are no sealed documents in this case. *Id.*

6. Apparently, no court reporter was present at the Status Conference that took place in chambers on March 20<sup>th</sup>, 2013; as specified in my "Motion Requesting Information From the Record" (Docket No. 90).

7. However, at the Status Conference that took place in the Old San Juan courtroom on October 30<sup>th</sup>, 2013, Ms. Evilys Brathwaite was present as court reporter, according to the Minute Entry entered into the record on November 8<sup>th</sup>, 2013 (Docket No. 92). Since this is an in court proceeding, it should be transcribed and made part of the record, according to Order(s) dated November 8<sup>th</sup>, 2013 (Docket No. 91) and, again, November 18<sup>th</sup>, 2013 (Docket No. 94). I have taken the liberty of enclosing an additional Transcript Report/Order form for these proceedings, for approval of the Honourable Court; with my apologies for this oversight, due to excusable neglect.

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8. Even if a court reporter was present at the three in court Settlement/Status Conferences, I am not certain if a proposed budget would be part of the transcript.

9. The process whereby a record on appeal is assembled is thoroughly detailed in Fed. R. App. P. 10(b); and in Local Rule 10 of the Honourable First Circuit Court of Appeals. It is the Appellant's duty to request a Transcript Report/Order Form for those proceedings not already part of the record.

10. When a transcript of the procedures is unavailable, or they were not recorded, then Fed. R. App. P. 10(c), (d), and (e) stipulate that a Statement of the Facts and/or Issues on appeal by the parties must be approved by the Honourable District Court and then forwarded to the Honourable First Circuit Court of Appeals.

11. My request for the parties in the instant case is as follows: if it pleases the Honourable U.S. District Court for the District of Puerto Rico, I would like for the parties of the case to draft a Statement of Facts and/or Issues in the instant case, *with special emphasis on any and all budgetary issues*, including any proposed budget that may have been presented and/or discussed at *any* of the proceedings; with emphasis on the telephone and in chambers Status Conferences, for approval of the Honourable District Court; to be forwarded to Honourable First Circuit Court of Appeals.

12. For a Federal civil case that has such high public importance, I personally find that budgetary information crucial to the issues being discussed is particularly absent from the record; especially since there are no sealed documents in the instant case.

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13. This "Motion Requesting a Statement of Facts and/or Issues" is based on the accompanying "Memorandum of Law" in support thereof. Rather than being a peremptory request, I hope that this motion will help clarify the events that took place in arriving at a resolution of the instant case, as it stands; and *so that budgetary information may be made part of the record, not only to be reviewed on appeal, but so that the public may have access to it, if it so desires.*

**WHEREFORE**, proposed Intervening Defendant Jorge Díaz Castro, as a concerned lobbyist for Defendant Puerto Rico Police Department, respectfully requests that the Honorable U.S. District Court for the District of Puerto Rico request from the parties in the instant case a Statement of Facts and/or Issues, *with special emphasis on budget issues*; to comply with Fed. R. App. P. 10(b), and with Local Rule 10 of the Honourable First Circuit Court of Appeals; and *so that budgetary information may be made part of the record, not only to be reviewed on appeal, but so that the public may have access to it, if it so desires.*

**CERTIFICATION:** I hereby certify that today I filed the foregoing with the Clerk of the Court which, on information and belief, shall automatically notify counsel of record which are CM/ECF system participants at the corresponding e-mail address, and which pursuant to Local Civil Rule 5, constitutes the equivalent service.

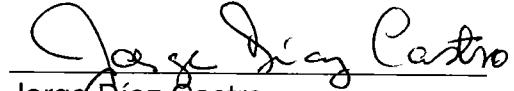
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**RESPECTFULLY SUBMITTED**, in San Juan, P.R., on this 25<sup>th</sup> day of November, 2013.



Jorge Diaz Castro

PRO SE

P.O. Box #9021288

San Juan, P.R. 00902-1288

Email: transcripciones@mail.com

**UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**  
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Case name USA v. Commonwealth of Puerto Rico et al.District Court Case No. 12-2039 2013 NOV 25 PM 12:01 of Puerto RicoDate Notice of Appeal filed 08/12/2013 and/or 10/07/2013 Court of Appeals Case No. 13-2079 and/or 13-2306Form filed on behalf of PRO SE Appellant Jorge Díaz Castro**CLERK'S OFFICE****U.S. DISTRICT COURT****SAN JUAN, P.R.****TRANSCRIPT REPORT**Transcript Not Necessary for this Appeal       Transcript Already Filed in District Court. List each transcript by docket entry number and date and type of proceeding (attach separate page if necessary) A transcript has been ordered (Dockets No.91, No. 94)but has not yet been filed.**TRANSCRIPT ORDER**Name of Court Reporter Ms. Evilys BrathwaitePhone Number of Reporter N/A

A.  This constitutes an order of the transcript of the following proceedings [check appropriate box(es) and indicate dates of hearing(s)]:

PROCEEDING(S)	HEARING DATE(S)
<input type="checkbox"/> Jury Voir Dire	_____
<input type="checkbox"/> Opening Statement (plaintiff)	_____
<input type="checkbox"/> Opening Statement (defendant)	_____
<input type="checkbox"/> Trial	_____
<input type="checkbox"/> Closing Argument (plaintiff)	_____
<input type="checkbox"/> Closing Argument (defendant)	_____
<input type="checkbox"/> Findings of Fact/Conclusions of Law	_____
<input type="checkbox"/> Jury Instructions	_____
<input type="checkbox"/> Change of Plea	_____
<input type="checkbox"/> Sentencing	_____
<input type="checkbox"/> Bail hearing	_____
<input checked="" type="checkbox"/> Pretrial proceedings (specify) <u>Conference</u>	<u>Status/Settlement Conference in court on 10/30/2013 (Docket No. 92)</u>
<input type="checkbox"/> Testimony (specify) _____	_____
<input type="checkbox"/> Other (specify) _____	_____

NOTE: Any form that fails to specify in adequate detail those proceedings to be transcribed will be considered deficient.

B.  I certify that I have contacted the court reporter and the following financial arrangements for payment of the transcript have been made:

- Private funds.
- Government expense (civil case). IFP status has been granted and a motion for transcript at government expense has been allowed. (Attach a copy of the order to each copy of this order form.)
- Criminal Justice Act. A CJA Form 24 has been approved by the district court judge.
- Criminal Justice Act. A CJA Form 24 is attached for authorization by the court of appeals.
- Federal Public Defender/Government Counsel - no CJA Form 24 necessary.

Filer's name Jorge Díaz CastroFiler's Signature s/ Jorge Díaz CastroFirm/Address P.O. Box #9021288, San Juan, P.R. 00902-1288Filer's Email address transcripciones@mail.comTelephone number N/ADate mailed to court reporter 11/25/2013

(Court Reporter Use ONLY) Date received \_\_\_\_\_